

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

Tracey F. Carter,)	
)	C.A. No. 1:13-2170-TMC-SVH
Petitioner,)	
)	
v.)	ORDER
)	
Cecilia Reynolds, Warden,)	
)	
Respondent.)	
)	

Petitioner Tracey F. Carter, a state prisoner proceeding pro se, filed this habeas action pursuant to 28 U.S.C. § 2254. In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02, D.S.C., this matter was referred to a magistrate judge for pretrial handling. Before the court is the magistrate judge's Report and Recommendation ("Report"), recommending that Respondent's motion for summary judgment (ECF No. 13) be denied without prejudice and with leave to file an amended return and/or motion for summary judgment. The parties were advised of their right to file objections to the Report. (ECF No. 33 at 7). However, neither party filed any objections to the Report, and the time to do so has now run.

The Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). In the absence of objections, this court is not required to provide an explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note).

After a thorough review of the Report and the record in this case, the court adopts the Magistrate Judge's Report (ECF No. 33) and incorporates it herein. Accordingly, Respondent's motion for summary judgment (ECF No. 13) is **DENIED** without prejudice, and leave is granted to Respondent to file an amended return and/or motion for summary judgment within 45 days. This matter is recommitted to the magistrate judge for further handling.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

Anderson, South Carolina
June 26, 2014

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.